

BEFORE THE OFFICE OF THE COMMISSIONER OF RAILROADS

STATE OF WISCONSIN

On the Commissioner's Own Motion for a Determination of the Adequacy of Warning Devices at the Grade Crossing of the Wisconsin & Southern Railroad Co. Tracks with Twelve Streets in the City of Madison, Dane County

9170-RX-192

FINDINGS OF FACT AND ORDER

On March 11, 2005, the Commissioner of Railroads directed the staff of the Office of the Commissioner of Railroads (OCR) to investigate the adequacy of warning devices under §195.28, Stats., at twelve grade crossings of the Wisconsin & Southern Railroad Co. (WSOR) tracks in the City of Madison, Dane County.

Street	Crossing No.
Broom Street	177 818M
Blair Street	177 820N
Blount Street	177 823J
Livingston Street	177 827L
Patterson Street	177 829A
Brearily Street	177 831B
Ingersoll Street	177 834W
Baldwin Street	177 839F
Dickenson Street	177 840A
E. Washington Avenue	177 841G
Thornton Avenue	177 842N
Johnson Street	178 052L

The OCR issued the Notice of Investigation in this matter on March 14, 2005. By letter dated March 24, 2005, the City of Madison requested a hearing. The request for a hearing was premature. Under s. 195.28 Stats., the OCR first issues an order and then the "petitioner, railroad, railroad historical society or any interested party" may object to the order and request a hearing. The request for a hearing is due within 20 days of the date of the order.

Findings of Fact

THE COMMISSIONER FINDS:

The City of Madison general ordinances prohibit the sounding of trains at rail-highway crossings that have automatic flashing lights or gates for warning devices. This prohibition applies to the twelve crossings that are the subject of this docket.

11.01 RAILWAYS.

(2) Not to Blow Whistles at Street Crossings.

(a) It shall be unlawful for any railroad company or any locomotive engineer to blow any locomotive whistle within the City limits unless necessary to prevent immediate danger to life or property.

(b) The prohibition contained in Subdivision (a), above, shall not apply when a locomotive is within 330 feet of a grade crossing not protected by gates or flashing signals.

(c) Any person violating Subdivision (a), above, shall be subject to a forfeiture of not less than \$200 and not more than \$500.

(d) This provision shall become effective October 1, 2001.

The Federal Railroad Administration (FRA) is currently in the process of adopting rules requiring the sounding of train horns at all at-grade crossings unless certain exceptions are met. The FRA rule has not gone into effect and it is unclear when the rule will become effective.

Train crews have reported numerous and repeated instances where vehicles cross the tracks even though a train is closely approaching the crossing and the crossing lights are flashing.

Requiring the sounding of the train horn until the FRA rules are promulgated and the city meets the standards for a quiet zone will promote public safety.

The Commissioner finds that in order to adequately protect and promote public safety, it is necessary to require the sounding of locomotive horns on trains approaching the crossings.

Conclusion on the Issue

THE COMMISSIONER CONCLUDES:

That in order to adequately protect and promote public safety, it is necessary to require the sounding of locomotive horns on trains approaching the crossings.

Conclusion of Law

THE COMMISSIONER CONCLUDES:

That the jurisdiction of the Office of the Commissioner of Railroads under Chapter 195, Stats., extends to this matter. Accordingly, the Office enters an order consistent with the findings of fact.

Order

THE COMMISSIONER ORDERS:

1. That the **Wisconsin and Southern Railroad Co.** shall, **upon approach to the crossings, cause the horn of such train to be blown in the standard manner.**
2. That if the petitioner, railroad or any interested party objects to this order and requests a hearing within 20 days of the date of this order in writing, the Office will hold a public hearing.
3. That jurisdiction is retained.

Dated at Madison, Wisconsin, _____.

By the Office of the Commissioner of Railroads.

Rodney W. Kreunen
Commissioner of Railroads